

No 525



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CHARLES ELMORE CROPLEY
CLERK

In the United States Supreme Court

FROM THE

UNITED STATES CIRCUIT COURT OF APPEALS FOR THE
EIGHTH CIRCUIT AT ST. LOUIS, MO.

Entitled:

GILBERT LORENZ GODBERSEN, *Appellant*

v.

UNITED STATES OF AMERICA, *Appellee*

PETITION FOR WRIT OF CERTIORARI

IN THE UNITED STATES SUPREME COURT

GILBERT LORENZ GODBERSEN, *Appellant*

v.

UNITES STATES OF AMERICA, *Appellee*

**In the Matter of the Application of Gilbert Lorenz Godbersen
for a Writ of Certiorari**

*To the Honorable Chief Justice and Associate Judges of the
Supreme Court of the United States:*

Your petitioner respectfully shows:

I am a citizen of the United States and the State of Iowa and reside in Woodbury County in said state.

I have been illegally arrested by the Deputy United States Marshal, for the Northern District of Iowa, Robert C. Dailey, and subsequently illegally restrained and imprisoned in the County Jail for Woodbury County, Iowa, in the custody of the Federal Court and thereby deprived of my liberty and property without due process of Law, contrary to the Fifth Amendment of the Constitution, all under color of the authority of the United States of America.

I have petitioned the Federal District Court for the Northern District of Iowa, Western Division thereof, at Sioux City, Iowa, for a Writ of Habeas Corpus.

On the twenty-sixth day of May, 1943, the Honorable George C. Scott, now retired, Federal Judge of said Court, denied me a Hearing on said petition, thereby suspending the privilege of the Writ of Habeas Corpus, as to me, contrary to Article I, Section IX of the Constitution, since this case did not come under conditions of rebellion or invasion requiring suspension

for Public Safety, and thereby further deprived me of liberty and property without due process of Law, contrary to the Fifth Amendment.

Thereupon, on August 2, 1943, I took an appeal from said order to the United States Circuit Court of Appeals at St. Louis, Mo.

Whereupon the United States Attorney filed in the Circuit Court of Appeals a Motion to Dismiss said Appeal.

Whereupon said Motion to Dismiss was granted, November 8, 1943, despite the fact that no notice of filing said Motion by the Government or no Notice of Hearing thereon was served upon the Appellant, which fact the Appellant had informed the Circuit Court of, before the Hearing on said Motion to Dismiss, and in spite of the fact that appellant-petitioner herein had filed a Motion for 60-day Extension of Time to answer the Government's Motion to Dismiss, with substantial reasons therefore all before the Hearing on said Motion to Dismiss.

This Motion for 60-day Extension of Time to answer the Motion to Dismiss was denied on November 8, 1943.

These orders of the Circuit Court of Appeals for the Eighth Circuit at St. Louis, Mo., entered on November 8, 1943, dismissing my appeal and denying my Motion for Time to Answer, are unconstitutional, being in violation of Article I, Section IV of the United States Constitution since they deny this petitioner his privilege of the Writ of Habeas Corpus not under conditions of rebellion or invasion wherein the Public Safety may require suspension; and in violation of the Fifth Amendment further depriving petitioner of his liberty and property without due process of Law.

In said petition for a Writ of Habeas Corpus it was expressly shown that said illegal restraint and imprisonment were in violation of the Constitution of the United States and Amendments thereto, thus involving a substantial question of constitutionality and bringing a review of the proceedings resulting in the

denial of the Writ by the District Court and the refusal of the Circuit Court to review same, under the jurisdiction of the United States Supreme Court.

Wherefore your petitioner prays the United States Supreme Court for a Review of the Proceedings in the District Court and the Circuit Court of Appeals, heretofore outlined, either by Writ of Certiorari or by allowance of Appeal herein; thence to reverse the aforementioned order of the District Court entered on May 26, 1943, and the aforementioned orders of the Circuit Court entered on November 8, 1943, and to grant the Writ of Habeas Corpus and release the petitioner from his unconstitutional restraint.

November 30, 1943.

Gilbert Lorenz Godbersen, *Petitioner*.

Gilbert Lorenz Godbersen, being duly sworn, deposes and says that he is the petitioner named in the foregoing petition, subscribed by him; that he has read the same and knows the contents thereof and the said statements are true as he verily believes.

Subscribed and sworn before me this.....day of December, 1943.

Notary Public in and for said State and County.

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